



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE FRIDAY 20 APRIL 2012

Title

APPOINTMENT OF TECHNICAL, LEGAL AND FINANCIAL ADVISORS TO THE WASTE PROCUREMENT PROJECT

Report for the

CABINET MEMBER FOR HIGHWAYS, TRANSPORT AND WASTE

EXECUTIVE SUMMARY

1. This paper seeks approval to procure and appoint technical, financial and legal advisors in order to support the preparation of the waste contract procurement and funding options.
2. It also seeks to ensure that the new waste collection and disposal contract/s will be successfully implemented without a break in service in October 2015 and that the contract delivers the best possible outcome in terms of the value for money and the effective collection and disposal of waste.

BACKGROUND

3. This report seeks the approval to commence the procurement and appointment of technical, financial and legal advisors to support the procurement process. The expected maximum spends during 2012/13 for these advisors are: Legal £120k, Financial £190k and Technical £190k. The appointment of suitable advisors will be undertaken in accordance with paragraphs 19 – 22 of this paper and therefore the advisors will not be available at the commencement of the current financial year; spend figures are therefore not based on a full year's expenditure.
4. The current contract for Waste Collection and Treatment services expires in October 2015. The existing treatment facilities are at the end of their service life and may not remain fully in service until that time. The current landfill is also likely to reach its capacity within the near future leading to the need for a new landfill site.
5. The new contract must therefore be in place and be operational by October 2015. From the end of February 2012, there are 44 months available to both complete the procurement process and to build any new infrastructure needed to operate a new contract. However, the procurement process is likely to take 36 months and a further 30 months will be needed to build the infrastructure.
6. The procurement of a new waste collection and treatment contract may require significant investment in treatment facilities and the construction of a new landfill site. The procurement process needs to follow EU procurement regulations and is assessed to be a "complex procurement" requiring the use of the competitive dialogue route. The following

are the key stages in that process: Pre-Qualification (PQQ), Invitation to Submit Outline Solutions (ISOS), Invitation to Submit Detailed Solutions (ISDS), Invitation to Submit Refined Solutions (ISRS), Call for Final Tender (CFT) and Preferred Bidder (PB) selection. The ISOS, ISDS and ISRS phases involve detailed dialogue sessions with bidders including evaluation of proposals at the end of each stage.

7. The current waste infrastructure on the Island is not fit for purpose for a future waste contract and the council will need to consider making substantial capital investment to manage waste services in the future. There will be alternative mechanisms for funding such provisions and some of those options will be influenced by the appetite of both the council and the market to take investment risks and to consider various borrowing options. The technical, legal and financial options for implementing a new waste contract should therefore be fully understood by the council before we embark on the new procurement. To this end, it is planned that a comprehensive "Outline Business Case" setting out the options, costs, funding mechanisms, risk transfer options and procurement costs will be produced for the approval of the Cabinet. The current Waste Project Team requires external "waste specialists" to support the technical, financial and legal aspects of the business case. This stage, up to the production of the Outline Business Case (OBC) approval, is identified as Phase 1.
8. If the OBC is approved and the council allocates adequate funding for the procurement stage, then the same external advisors (subject to appropriate performance) will be used to support the procurement phase (Phase 2).
9. The draft waste strategy is complete and the appointment of external advisors to support the OBC and procurement phases is now an urgent requirement in order that the procurement of the contract can be progressed.
10. The initial task of the three advisors once appointed would be to support Phase 1 – i.e. the development of the Outline Business Case over a three to four month period. The decision to progress to procure a new waste contract, phase 2, will be made by the Cabinet once the Outline Business Case is presented. The three external advisors will be engaged using framework type contracts allowing services to be provided under call-off arrangements. Advisor appointments for Phase 1 will be structured such that they remain valid for Phase 2, if and when the council decides to proceed to waste contract procurement.

STRATEGIC CONTEXT

11. The procurement of the future waste contract is a strategic priority for the council, as set out in the Council Corporate Plan. The approval to proceed to appointing the advisors will ensure that work towards key milestones, including development of the Outline Business Case may be commenced and therefore the risks of further delays to the progress of this project are limited.
12. An early priority after the appointment of external advisors will be to set out a full assessment of options, costs, funding mechanisms and risk transfer scenarios with a detailed Outline Business case (OBC), to be produced for the approval of Cabinet, in the summer of 2012, prior to the advancement beyond OBC stage.

CONSULTATION

13. There has been internal officer and member consultation and the budget agreement of the Full Council.

14. On 20 February 2012, a members information seminar was held in order to advise councillors of the key issues facing the waste project, including the requirement for the appointment of technical, legal and financial advisors. Implications of further delays to the project were also outlined.

FINANCIAL / BUDGET IMPLICATIONS

15. Phase 1 - Budget required for the production of the Outline Business Case of an estimated £100k is already available from the savings made from the waste strategy funding. This has been achieved by efficient management of the consultancy contract, while increased internal capacity and expertise has meant that some of the work is being completed within the council.
16. Phase 2 – the longer term budget requirement for managing the procurement of a new waste contract will be finalised when the Outline Business Case is completed.

CARBON EMISSIONS

17. For review meetings and on other occasions, the project team will endeavour to make maximum use of conference calls with the financial, legal and technical advisors, in order to reduce the requirements to travel. A more effective waste collection regime maximising recycling and reducing landfill will ultimately also contribute towards a reduced carbon footprint.

LEGAL IMPLICATIONS

18. Each of the three external advisors will be engaged on framework agreements that will be in the form of call-off arrangements. This will provide the council with the flexibility to call upon the advisors for individual tranches of work as and when required by the council. The framework agreements will not guarantee any particular level of work to the advisors and in the event that the council requirements should change during the project, spend with any or all of the advisors can be amended, or ceased.
19. A specific option within the framework agreement placed for the legal support for the Highways PFI project enables the legal services for the waste project to be awarded to the same provider if considered appropriate. This framework agreement was placed after competition via a Government Procurement Service (GPS) framework agreement.
20. The contract for technical services put in place via a full EU tender process for the development of the waste strategy contains a specific option to enable the technical services for the Outline Business Case stage to be awarded to that provider.
21. The finance services will be secured through a competitive tender process using an appropriate GPS framework agreement.
22. All of the above will be subject to approval through the council's internal processes. These arrangements will be compliant with both the council's own contract requirements and EU requirements.

OPTIONS

23. Option 1 is to produce the OBC internally by the project team. This option has been considered and discounted as the Project Team members do not have the necessary skills.

24. Option 2 is to approve the appointment of technical, legal and financial advisors to facilitate the preparation of an Outline Business Case to inform the longer term waste contract procurement and funding options.

RISK MANAGEMENT

25. The council has identified the delivery of the waste contract as a strategic priority, but with no ongoing budget provision. The approval process for the appointment of advisors is already reducing the time available to implement the new waste contract. The risk of delay to the procurement of the waste contract is significant both in financial and reputational terms

26. A risk management strategy has been developed for the project designed to manage those risks which could impact the project. This will help inform the risk consideration during the Authority's procurement process. Risk workshops are being held regularly, to monitor and update risks and mitigation actions as required.

EVALUATION

27. The appointment of the Advisors will be on the basis of quality and price.

RECOMMENDATION

28. It is recommended that approval should be given to progress with Option 2 (above) and therefore approves the appointment of technical, legal and financial Advisors to facilitate the preparation of an Outline Business Case to inform the longer term waste contract procurement and funding. The completion of the OBC however will enable the Authority to increase its certainty over actual spend moving forward.

APPENDICES ATTACHED

29. None

BACKGROUND PAPERS

30. Full Council Budget report – 29 February 2012.

Contact Point - Jay Jayasundara, Highways PFI Programme Director
tel. 01983 823520 e-mail, jay.jayasundara@iow.gov.uk

STUART LOVE
Strategic Director
Economy & Environment
Decision

COUNCILLOR EDWARD GILES
Cabinet Member for Highways, Transport and
Waste

Signed

Date
